

ORDER OF THE SUPREME COURT OF TEXAS

Misc Docket No. 99-9000

Appointment of a District Judge to Preside
in a State Bar Disciplinary Action

The Supreme Court of Texas hereby appoints the Honorable Cecil G. Puryear, Judge of the 137th District Court of Lubbock County, Texas, to preside in the Disciplinary Action styled:

The Commission for Lawyer Discipline v. Luis Aguilar

to be filed in a District Court of El Paso County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of El Paso County, Texas, a copy of this Order and of the Disciplinary Petition for filing and service pursuant to Rule 3.03, Texas Rules of Disciplinary Procedure.

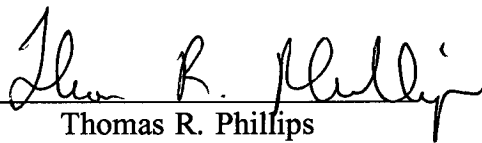
As ordered by the Supreme Court of Texas, in chambers,

with the Seal thereof affixed at the City
of Austin, this 9th day of February, 1999.


JOHN T. ADAMS, CLERK
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 99-9000, is also an assignment by the Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 9 day of February, 1999.


Thomas R. Phillips
Chief Justice

NO. _____

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF
V. § EL PASO COUNTY, TEXAS
LUIS AGUILAR § _____ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Petitioner, the Commission for Lawyer Discipline, a committee of the State Bar of Texas (hereinafter called "Petitioner"), complaining of Respondent, Luis Aguilar (hereinafter called "Respondent"), showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, Tex. Gov't. Code Ann. § 81.001, et seq. (Vernon 1988), the Texas Disciplinary Rules of Professional Conduct and the Texas Rules of Disciplinary Procedure. The complaint which forms the basis of the Disciplinary Petition was filed on or after May 1, 1992.

II.

Respondent is an attorney licensed to practice law in Texas and a member of the State Bar of Texas. Respondent is a resident of, and has her principal place of practice in, El Paso County, Texas. An officer may serve citation on Respondent at 528 East Overland, Suite 203, El Paso, Texas 79901.

III.

In or around November of 1993 Mary Lucille Palomino (hereinafter referred to as Complainant) retained Luis Aguilar (hereinafter referred to as Respondent) to represent her in a civil matter. Upon termination of representation, Respondent failed to take steps to the extent reasonably practicable to protect Complainant's interest, in that Respondent failed or refused to

surrender papers and property to which Complainant was entitled upon termination of representation and refused to cooperate with the attorney chosen by Complainant to represent her.

IV.

During the representation of Complainant by Respondent, the parties opposing complainant in the representation filed a Motion for Summary Judgment. Respondent was aware that the presiding judge did not make summary judgment hearings a matter of record and that no oral arguments made at such a hearing in Complainant's case would be part of the record in Complainant's case. Despite knowing that no oral arguments against Summary Judgment in Complainant's case would become part of the record in Complainant's case, Respondent did not file a written Response to the Motion for Summary Judgment filed by the parties opposing Complainant and thus did not cite any legal authorities or present any evidence to the trial court in opposition to Summary Judgment. Thus Respondent consciously disregarded a responsibility to Complainant required by his representation of her.

V.

During the representation of Complainant by Respondent, Respondent failed to communicate to Complainant that a Motion for Summary Judgment had been filed in her case, failed to communicate to Complainant the required response to such a Motion for Summary Judgment, failed to communicate to Complainant the fact that a hearing had been set on the Motion for Summary Judgment, and failed to promptly communicate the fact that the Motion for Summary Judgment had been granted and Complainant's case dismissed.

VI.

Such acts and/or omissions on the part of Respondent as are described in paragraphs III, IV, and V hereinabove which occurred on or after January 1, 1990, constitute conduct violative of Rules 1.01, 1.03 and 1.15(d) of the Texas Disciplinary Rules of Professional

Conduct.

VII.

The complaint which forms the basis of the cause of action hereinabove set forth was brought to the attention of the Office of the General Counsel of the State Bar of Texas by complaints filed by Mary Palomino on or about January 7, 1998.

PRAYER

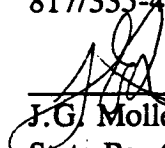
WHEREFORE, PREMISES CONSIDERED, Petitioner prays for judgment that Respondent be disciplined as the facts shall warrant; and that Petitioner have such other relief to which entitled, including costs of Court and attorneys' fees.

Respectfully submitted,

Steven W. Young
General Counsel

J.G. Molleston
Assistant General Counsel

Office of the General Counsel
STATE BAR OF TEXAS
201 Main Street, Suite 1150
Fort Worth, TX 76102
817/877-4993
817/335-4249 (FAX)



J.G. Molleston
State Bar Card No. 00795924

ATTORNEYS FOR PETITIONER

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

January 8, 1999

John T. Adams, Clerk
Supreme Court of Texas
P.O. Box 12248
Austin, Texas 78711

Re: Commission for Lawyer Discipline v. Luis Aguilar

Dear Mr. Adams:

Enclosed please find an original and two (2) copies of a Disciplinary Petition being filed by the Commission for Lawyer Discipline against Luis Aguilar. Mr. Aguilar has designated El Paso County, Texas, as his principal place of practice. Request is hereby made that the Court appoint an active District Judge who does not reside in the Administrative Judicial Region in which Respondent resides to preside in this case. Upon appointment, request is made that you notify the Respondent at the address shown below and the undersigned of the identity and address of the judge assigned:

Luis Aguilar
528 East Overland, Suite 203
El Paso, TX 79901

As a practical matter, I would respectfully suggest that you inquire with the judge to be appointed as to: (1) whether he or she will be able to comply with the 180 day deadline by which the case must be set for trial set forth in Section 3.07 of the Texas Rules of Disciplinary Procedure; and (2) whether he or she can accommodate compliance with *Mellon Service Co., et al v. Touche Ross Co.*, 946 S.W.2d 862 (Tex. App. - Houston [14th Dist.] 1997), which requires that all proceedings incident to a case occur in the county of proper venue. If not, I would respectfully request that an alternate appointment be made.

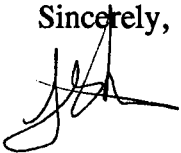
Once a trial judge has been appointed, please forward the original and two (2) copies of the Disciplinary Petition, the filing fee check, also enclosed herewith, and the Court's appointing order to the District Clerk of El Paso County, Texas, with the request that the suit be filed, service be obtained, and a file-marked copy of the petition be returned to the undersigned.

Mr. John Adams
January 8, 1999
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Also enclosed are a pre-addressed envelope for your use in transmitting the petition, etc., to the District Clerk of El Paso County, Texas, and a return envelope to be sent to the District Clerk of El Paso County, Texas, for the Clerk's use in returning a file-marked copy of the Petition to the undersigned.

Thank you for your courtesies in this matter.

Sincerely,



J. G. Molleston
Assistant General Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas

JGM/mc

Enclosures



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

TEL: (512) 463-1312

FAX: (512) 463-1365

JUSTICES
NATHAN L. HECHT
CRAIG T. ENOCH
PRISCILLA R. OWEN
JAMES A. BAKER
GREG ABBOTT
DEBORAH G. HANKINSON
HARRIET O'NEILL
ALBERTO R. GONZALES

FEB 17 1999

CLERK
JOHN T. ADAMS

EXECUTIVE ASS'T
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASS'T
JIM HUTCHESON

ADMINISTRATIVE ASS'T
NADINE SCHNEIDER

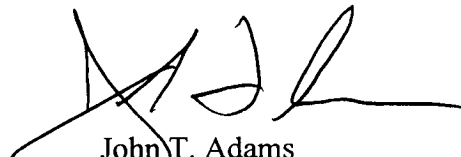
Honorable Cecil G. Puryear
Judge, 137th District Court
904 Broadway Street
Lubbock, Texas 79401

Dear Judge Puryear:

We enclose for your information a copy of the order of assignment, a copy of the Disciplinary Action, a copy of the notification letter to Mr. Aguilar and Mr. Molleston, and a copy of the letter to the District Clerk of El Paso County.

It is recommended that, a month or six weeks after receipt of this letter, you or your coordinator contact the District Court Administrative Office (915-546-2143) to find out the district court to which this disciplinary case has been assigned, names and addresses of counsel, etc. We then recommend that, either before or immediately after you set the case for trial, you contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (915-546-8135) to reserve a courtroom, obtain a court reporter, obtain claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,



John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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JOHN T. ADAMS

EXECUTIVE ASST
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST
JIM HUTCHESON

ADMINISTRATIVE ASST
NADINE SCHNEIDER

Mr. J.G. Molleston
Assistant General Counsel, State Bar of Texas
201 Main Street, Suite 1150
Fort Worth, Texas 76102

Mr. Luis Aguilar
528 East Overland, Suite 203
El Paso, Texas 79901

Dear Mr. Molleston and Mr. Aguilar:

Pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, I hereby notify you that the Supreme Court of Texas has appointed the Honorable Cecil G. Puryear, Judge of the 137th District Court, Lubbock, Texas to preside in

Commission for Lawyer Discipline v. Luis Aguilar

Sincerely,

A handwritten signature in black ink, appearing to be "John T. Adams", written over a horizontal line.

John T. Adams
Clerk



THE SUPREME COURT OF TEXAS

CHIEF JUSTICE
THOMAS R. PHILLIPS

POST OFFICE BOX 12248 AUSTIN, TEXAS 78711

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ALBERTO R. GONZALES

FEB 17 1999

The Honorable Edie Rubalcaba
District Clerk of El Paso County
500 East San Antonio Avenue, Room 103
El Paso, Texas 79901-2496

Dear Mr. Rubalcaba:

Pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure, I am sending for filing State Bar of Texas Disciplinary Action styled: *The Commission for Lawyer Discipline v. Luis Aguilar*, and a copy of the Supreme Court's order appointing the Honorable Cecil G. Puryear, Judge of the 137th District Court, Lubbock, Texas, to preside in this Disciplinary Action.

Sincerely,

A handwritten signature in black ink, appearing to read "John T. Adams".

John T. Adams
Clerk

cc: Hon. Cecil G. Puryear
Mr. Luis Aguilar
Mr. J.G. Molleston